

# SENATE BILL No. 171

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-13-2-14.6; IC 9-24-15-6.5; IC 9-26-1-8; IC 9-30; IC 14-15-8-8; IC 35-50-2-2.

**Synopsis:** Operating while intoxicated and accident scenes. Makes failing to stop at the scene of an accident, a Class A misdemeanor, a: (1) Class D felony if the accident involves bodily injury to a person; (2) Class C felony if the accident involves serious bodily injury to a person; and (3) Class B felony if the accident involves the death of a person. Makes it a Class D felony for a person to operate a motor vehicle or motorboat while intoxicated and cause bodily injury to another person. Makes operating a motor vehicle or motorboat while intoxicated and causing serious bodily injury to another person a Class C felony instead of a Class D felony. Makes operating a motor vehicle or motorboat while intoxicated and causing the death of another person a Class B felony instead of a Class C felony. Requires a court to recommend the suspension of a person's driving privileges for five years if the person is convicted of operating a motor vehicle or motorboat while intoxicated and causing serious bodily injury to or the death of another person. Requires the bureau of motor vehicles and a court to suspend the driving privileges of a person for two years if the person: (1) refuses to submit to a chemical test; and (2) has been convicted of or entered a plea of guilty or nolo contendere to the offense of public intoxication, operating a vehicle recklessly, or operating a motor vehicle or motorboat while intoxicated. Allows certified phlebotomists to obtain bodily substance samples for purposes of implied consent laws. Makes conforming amendments.

**Effective:** July 1, 2006.

Wyss

January 9, 2006, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

C  
o  
p  
y



Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## SENATE BILL No. 171

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 9-13-2-14.6 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2006]: **Sec. 14.6. "Bodily injury", for purposes of IC 9-26-1 and**  
4 **IC 9-30-5, has the meaning set forth in IC 35-41-1-4.**

5       SECTION 2. IC 9-24-15-6.5, AS AMENDED BY P.L.2-2005,  
6 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2006]: Sec. 6.5. (a) The court shall grant a petition for a  
8 restricted driving permit filed under this chapter if all of the following  
9 conditions exist:

10       (1) The person was not convicted of one (1) or more of the  
11 following:

12       (A) A Class D felony under IC 9-30-5-4 before July 1, 1996,  
13 or a Class D felony, ~~or~~ a Class C felony, **or a Class B felony**  
14 under IC 9-30-5-4 after June 30, 1996.

15       (B) A Class C felony under IC 9-30-5-5 before July 1, 1996, or  
16 a Class C felony or a Class B felony under IC 9-30-5-5 after  
17 June 30, 1996.



C  
o  
p  
y

(2) The person's driving privileges were suspended under IC 9-30-6-9(c) or IC 35-48-4-15.

(3) The driving that was the basis of the suspension was not in connection with the person's work.

(4) The person does not have a previous conviction for operating while intoxicated.

(5) The person is participating in a rehabilitation program certified by either the division of mental health and addiction or the Indiana judicial center as a condition of the person's probation.

(b) The person filing the petition for a restricted driving permit shall include in the petition the information specified in subsection (a) in addition to the information required by sections 3 through 4 of this chapter.

(c) Whenever the court grants a person restricted driving privileges under this chapter, that part of the court's order granting probationary driving privileges shall not take effect until the person's driving privileges have been suspended for at least thirty (30) days under IC 9-30-6-9. In a county that provides for the installation of an ignition interlock device under IC 9-30-8, installation of an ignition interlock device is required as a condition of probationary driving privileges for the entire duration of the probationary driving privileges.

(d) If a court requires installation of a certified ignition interlock device under subsection (c), the court shall order the bureau to record this requirement in the person's operating record in accordance with IC 9-14-3-7. When the person is no longer required to operate only a motor vehicle equipped with an ignition interlock device, the court shall notify the bureau that the ignition interlock use requirement has expired and order the bureau to update its records accordingly.

SECTION 3. IC 9-26-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) A person who fails to stop or comply with section 1(1) or 1(2) of this chapter after causing injury to a person commits a Class A misdemeanor. However, the offense is:

(1) a Class D felony if:

(A) the accident involves ~~serious~~ **serious** bodily injury to a person; or

(B) within the five (5) years preceding the commission of the offense, the person had a previous conviction of any of the offenses listed in IC 9-30-10-4(a); ~~and~~

**(2) a Class C felony if the accident involves serious bodily injury to a person; and**

**(2) (3) a Class B felony if the accident involves the death of a person.**

C  
o  
p  
y



(b) A person who fails to stop or comply with section 3 or 4 of this chapter after causing damage to the property of another person commits a Class B misdemeanor.

SECTION 4. IC 9-30-5-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3.5. (a) A person who causes bodily injury to another person while operating a motor vehicle:**

**(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:**

**(A) one hundred (100) milliliters of the person's blood; or**

**(B) two hundred ten (210) liters of the person's breath;**

**(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body; or**

**(3) while intoxicated;**

**commits a Class D felony. However, the offense is a Class C felony if the person has a previous conviction of operating while intoxicated within the five (5) years preceding the commission of the offense.**

**(b) A person who commits the offense defined in subsection (a) commits a separate offense for each other person whose bodily injury is caused by the person's operation of the motor vehicle under circumstances described in subsection (a).**

**(c) It is a defense under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.**

SECTION 5. IC 9-30-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 4. (a) A person who causes serious bodily injury to another person when operating a motor vehicle:**

**(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:**

**(A) one hundred (100) milliliters of the person's blood; or**

**(B) two hundred ten (210) liters of the person's breath;**

**(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body; or**

**(3) while intoxicated;**

**commits a ~~Class D~~ Class C felony. However, the offense is a ~~Class C~~ Class B felony if the person has a previous conviction of operating while intoxicated within the five (5) years preceding the commission of the offense.**

**(b) A person who violates subsection (a) commits a separate offense for each person whose serious bodily injury is caused by the violation**

C  
o  
p  
y



of subsection (a).

(c) It is a defense under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 6. IC 9-30-5-5, AS AMENDED BY P.L.2-2005, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) A person who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood; or

(3) while intoxicated;

commits a ~~Class C~~ **Class B** felony. ~~However, the offense is a Class B felony if the person has a previous conviction of operating while intoxicated within the five (5) years preceding the commission of the offense; or if the person operated the motor vehicle when the person knew that the person's driver's license, driving privilege, or permit is suspended or revoked for a previous conviction for operating a vehicle while intoxicated.~~

(b) A person at least twenty-one (21) years of age who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath; or

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood;

commits a ~~Class C~~ **Class B** felony:

(c) ~~(b)~~ A person who violates subsection (a) ~~or (b)~~ commits a separate offense for each person whose death is caused by the violation of subsection (a). ~~or (b)~~:

(d) ~~(c)~~ It is a defense under subsection (a)(2) ~~or subsection (b)(2)~~ that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 7. IC 9-30-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 10. (a) In addition to a criminal penalty imposed for an offense under this chapter or

C  
o  
p  
y



IC 14-15-8, the court shall, after reviewing the person's bureau driving record and other relevant evidence, recommend the suspension of the person's driving privileges for the fixed period of time specified under this section.

(b) If the court finds that the person:

(1) does not have a previous conviction of operating a vehicle or a motorboat while intoxicated; or

(2) has a previous conviction of operating a vehicle or a motorboat while intoxicated that occurred at least ten (10) years before the conviction under consideration by the court;

the court shall recommend the suspension of the person's driving privileges for at least ninety (90) days but not more than two (2) years.

(c) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred more than five (5) years but less than ten (10) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one hundred eighty (180) days but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay.

(d) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred less than five (5) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one (1) year but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay.

(e) If the conviction under consideration by the court is for an offense under:

(1) section 4 of this chapter;

(2) section 5 of this chapter;

~~(3) IC 14-15-8-8(b); or~~

~~(4) (3) IC 14-15-8-8(c); or~~

**(4) IC 14-15-8-8(d);**

the court shall recommend the suspension of the person's driving privileges for **at least two (2) years but not more than five (5) years.**

(f) If the conviction under consideration by the court is for an offense involving the use of a controlled substance listed in schedule

**C  
O  
P  
Y**



I, II, III, IV, or V of IC 35-48-2, in which a vehicle was used in the offense, the court shall recommend the suspension or revocation of the person's driving privileges for at least six (6) months.

SECTION 8. IC 9-30-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) If:

(1) a court recommends suspension of a person's driving privileges under section 10(b) of this chapter for an offense committed under this chapter; and

(2) the person did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the offense; the court may stay the execution of the suspension of the person's driving privileges and grant the person probationary driving privileges for one hundred eighty (180) days.

(b) An order for probationary privileges must be issued in accordance with sections 11 and 13 of this chapter.

(c) If:

(1) a court recommends suspension of a person's driving privileges under section 10(c) ~~or 10(d) or 10(e)~~ of this chapter for an offense committed under this chapter; and

(2) the period of suspension recommended by the court exceeds the minimum permissible fixed period of suspension specified under section 10 of this chapter;

the court may stay the execution of that part of the suspension that exceeds the minimum fixed period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay.

(d) In addition to the other requirements of this section, if a person's driving privileges are suspended or revoked under section 10(f) of this chapter, a court must find that compelling circumstances warrant the issuance of probationary driving privileges.

(e) Before a court may grant probationary driving privileges under this section, the person to whom the probationary driving privileges will be granted must meet the burden of proving eligibility to receive probationary driving privileges.

SECTION 9. IC 9-30-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) A physician or a person trained in obtaining bodily substance samples and acting under the direction of or under a protocol prepared by a physician, who:

(1) obtains a blood, urine, or other bodily substance sample from a person, regardless of whether the sample is taken for diagnostic purposes or at the request of a law enforcement officer under this section; or

C  
o  
p  
y



(2) performs a chemical test on blood, urine, or other bodily substance obtained from a person; shall deliver the sample or disclose the results of the test to a law enforcement officer who requests the sample or results as a part of a criminal investigation. Samples and test results shall be provided to a law enforcement officer even if the person has not consented to or otherwise authorized their release.

(b) A physician, a hospital, or an agent of a physician or hospital is not civilly or criminally liable for any of the following:

- (1) Disclosing test results in accordance with this section.
- (2) Delivering a blood, urine, or other bodily substance sample in accordance with this section.
- (3) Obtaining a blood, urine, or other bodily substance sample in accordance with this section.
- (4) Disclosing to the prosecuting attorney or the deputy prosecuting attorney for use at or testifying at the criminal trial of the person as to facts observed or opinions formed.
- (5) Failing to treat a person from whom a blood, urine, or other bodily substance sample is obtained at the request of a law enforcement officer if the person declines treatment.
- (6) Injury to a person arising from the performance of duties in good faith under this section.

(c) For the purposes of this chapter, IC 9-30-5, or IC 9-30-9:

- (1) the privileges arising from a patient-physician relationship do not apply to the samples, test results, or testimony described in this section; and
- (2) samples, test results, and testimony may be admitted in a proceeding in accordance with the applicable rules of evidence.

(d) The exceptions to the patient-physician relationship specified in subsection (c) do not affect those relationships in a proceeding not covered by this chapter, IC 9-30-5, or IC 9-30-9.

(e) The test results and samples obtained by a law enforcement officer under subsection (a) may be disclosed only to a prosecuting attorney or a deputy prosecuting attorney for use as evidence in a criminal proceeding under this chapter, IC 9-30-5, or IC 9-30-9.

(f) This section does not require a physician or a person under the direction of a physician to perform a chemical test.

(g) A physician or a person trained in obtaining bodily substance samples and acting under the direction of or under a protocol prepared by a physician shall obtain a blood, urine, or other bodily substance sample if the following exist:

- (1) A law enforcement officer requests that the sample be

**C  
O  
P  
Y**





obtained.

(2) The law enforcement officer has certified in writing the following:

(A) That the officer has probable cause to believe the person from whom the sample is to be obtained has violated IC 9-30-5.

~~(B) That the person from whom the sample is to be obtained has been transported to a hospital or other medical facility.~~

~~(C)~~ (B) That the person from whom the sample is to be obtained has been involved in a motor vehicle accident that resulted in the serious bodily injury or death of another.

~~(D)~~ (C) That the accident that caused the serious bodily injury or death of another occurred not more than three (3) hours before the time the sample is requested.

(3) Not more than the use of reasonable force is necessary to obtain the sample.

(h) If the person:

(1) from whom the bodily substance sample is to be obtained under this section does not consent; and

(2) resists the taking of a sample;

the law enforcement officer may use reasonable force to assist an individual, who must be authorized under this section to obtain a sample, in the taking of the sample.

(i) The person authorized under this section to obtain a bodily substance sample shall take the sample in a medically accepted manner.

(j) A law enforcement officer may transport the person to a place ~~other than a hospital~~ where the sample may be obtained by any of the following persons who are trained in obtaining bodily substance samples and who have been engaged to obtain samples under this section:

(1) A physician holding an unlimited license to practice medicine or osteopathy.

(2) A registered nurse.

(3) A licensed practical nurse.

(4) An emergency medical technician-basic advanced (as defined in IC 16-18-2-112.5).

(5) An emergency medical technician-intermediate (as defined in IC 16-18-2-112.7).

(6) A paramedic (as defined in IC 16-18-2-266).

**(7) A certified phlebotomist.**

SECTION 10. IC 9-30-6-9, AS AMENDED BY P.L.153-2005,

C  
o  
p  
y



SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section does not apply if an ignition interlock device order is issued under section 8(d) of this chapter.

(b) If the affidavit under section 8(b) of this chapter states that a person refused to submit to a chemical test, the bureau shall suspend the driving privileges of the person:

(1) for:

(A) one (1) year; or

**(B) two (2) years if the person has been convicted of or entered a plea of guilty or nolo contendere to an offense under:**

**(i) IC 7.1-5-1-3 (public intoxication);**

**(ii) IC 9-21-8-52 (operating a vehicle recklessly);**

**(iii) IC 9-30-5 (operating a vehicle while intoxicated); or**

**(iv) IC 14-15-8 (operating a motor boat while intoxicated); or**

(2) until the suspension is ordered terminated under IC 9-30-5.

(c) If the affidavit under section 8(b) of this chapter states that a chemical test resulted in prima facie evidence that a person was intoxicated, the bureau shall suspend the driving privileges of the person:

(1) for one hundred eighty (180) days; or

(2) until the bureau is notified by a court that the charges have been disposed of;

whichever occurs first.

(d) Whenever the bureau is required to suspend a person's driving privileges under this section, the bureau shall immediately do the following:

(1) Mail a notice to the person's last known address that must state that the person's driving privileges will be suspended for a specified period, commencing:

(A) five (5) days after the date of the notice; or

(B) on the date the court enters an order recommending suspension of the person's driving privileges under section 8(c) of this chapter;

whichever occurs first.

(2) Notify the person of the right to a judicial review under section 10 of this chapter.

(e) Notwithstanding IC 4-21.5, an action that the bureau is required to take under this article is not subject to any administrative adjudication under IC 4-21.5.

(f) If a person is granted probationary driving privileges under

C  
o  
p  
y



IC 9-30-5 and the bureau has not received the probable cause affidavit described in section 8(b) of this chapter, the bureau shall suspend the person's driving privileges for a period of thirty (30) days. After the thirty (30) day period has elapsed, the bureau shall, upon receiving a reinstatement fee, if applicable, from the person who was granted probationary driving privileges, issue the probationary license if the person otherwise qualifies for a license.

(g) If the bureau receives an order granting probationary driving privileges to a person who has a prior conviction for operating while intoxicated, the bureau shall do the following:

(1) Issue the person a probationary license and notify the prosecuting attorney of the county from which the order was received that the person is not eligible for a probationary license.

(2) Send a certified copy of the person's driving record to the prosecuting attorney.

The prosecuting attorney shall, in accordance with IC 35-38-1-15, petition the court to correct the court's order. If the bureau does not receive a corrected order within sixty (60) days, the bureau shall notify the attorney general, who shall, in accordance with IC 35-38-1-15, petition the court to correct the court's order.

SECTION 11. IC 9-30-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) A person who refuses to submit to a portable breath test or chemical test offered under this chapter commits a Class C infraction.

(b) In addition to any other penalty imposed, the court:

(1) may suspend the person's driving privileges for a period of not more than one (1) year; or

**(2) shall suspend the person's driving privileges for two (2) years if the person has been convicted of or entered a plea of guilty or nolo contendere to an offense under:**

**(A) IC 7.1-5-1-3 (public intoxication);**

**(B) IC 9-21-8-52 (operating a vehicle recklessly);**

**(C) IC 9-30-5 (operating a vehicle while intoxicated); or**

**(D) IC 14-15-8 (operating a motor boat while intoxicated).**

SECTION 12. IC 14-15-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) Except as provided in subsections (b) and (c), a person who operates a motorboat:

(1) with an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath; or

C  
o  
p  
y



(2) while intoxicated;  
commits a Class C misdemeanor.

(b) The offense is a Class D felony if:

(1) the person has a previous conviction under:

(A) IC 14-1-5 (repealed); or

(B) this chapter; or

(2) the offense results in ~~serious~~ bodily injury to another person.

**(c) The offense is a Class C felony if the offense results in serious bodily injury to another person.**

~~(c)~~ **(d)** The offense is a ~~Class C~~ **Class B** felony if the offense results in the death of another person.

SECTION 13. IC 35-50-2-2, AS AMENDED BY P.L.213-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.7:

(1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

C  
o  
p  
y



- 1 (D) kidnapping (IC 35-42-3-2);
- 2 (E) confinement (IC 35-42-3-3) with a deadly weapon;
- 3 (F) rape (IC 35-42-4-1) as a Class A felony;
- 4 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
- 5 felony;
- 6 (H) child molesting (IC 35-42-4-3) as a Class A or Class B
- 7 felony;
- 8 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or
- 9 with a deadly weapon;
- 10 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
- 11 injury;
- 12 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
- 13 or with a deadly weapon;
- 14 (L) resisting law enforcement (IC 35-44-3-3) with a deadly
- 15 weapon;
- 16 (M) escape (IC 35-44-3-5) with a deadly weapon;
- 17 (N) rioting (IC 35-45-1-2) with a deadly weapon;
- 18 (O) dealing in cocaine, a narcotic drug, or methamphetamine
- 19 (IC 35-48-4-1) if the court finds the person possessed a firearm
- 20 (as defined in IC 35-47-1-5) at the time of the offense, or the
- 21 person delivered or intended to deliver to a person under
- 22 eighteen (18) years of age at least three (3) years junior to the
- 23 person and was on a school bus or within one thousand (1,000)
- 24 feet of:
- 25 (i) school property;
- 26 (ii) a public park;
- 27 (iii) a family housing complex; or
- 28 (iv) a youth program center;
- 29 (P) dealing in a schedule I, II, or III controlled substance (IC
- 30 35-48-4-2) if the court finds the person possessed a firearm (as
- 31 defined in IC 35-47-1-5) at the time of the offense, or the
- 32 person delivered or intended to deliver to a person under
- 33 eighteen (18) years of age at least three (3) years junior to the
- 34 person and was on a school bus or within one thousand (1,000)
- 35 feet of:
- 36 (i) school property;
- 37 (ii) a public park;
- 38 (iii) a family housing complex; or
- 39 (iv) a youth program center;
- 40 (Q) an offense under IC 9-30-5 (operating a vehicle while
- 41 intoxicated) and the person who committed the offense has
- 42 accumulated at least two (2) prior unrelated convictions under

C  
o  
p  
y



1 IC 9-30-5;  
 2 (R) an offense under ~~IC 9-30-5-5(b)~~ **IC 9-30-5-5** (operating a  
 3 vehicle while intoxicated causing death); or  
 4 (S) aggravated battery (IC 35-42-2-1.5).  
 5 (c) Except as provided in subsection (e), whenever the court  
 6 suspends a sentence for a felony, it shall place the person on probation  
 7 under IC 35-38-2 for a fixed period to end not later than the date that  
 8 the maximum sentence that may be imposed for the felony will expire.  
 9 (d) The minimum sentence for a person convicted of voluntary  
 10 manslaughter may not be suspended unless the court finds at the  
 11 sentencing hearing that the crime was not committed by means of a  
 12 deadly weapon.  
 13 (e) Whenever the court suspends that part of an offender's (as  
 14 defined in IC 5-2-12-4) sentence that is suspendible under subsection  
 15 (b), the court shall place the offender on probation under IC 35-38-2 for  
 16 not more than ten (10) years.  
 17 (f) An additional term of imprisonment imposed under  
 18 IC 35-50-2-11 may not be suspended.  
 19 (g) A term of imprisonment imposed under IC 35-47-10-6 or  
 20 IC 35-47-10-7 may not be suspended if the commission of the offense  
 21 was knowing or intentional.  
 22 (h) A term of imprisonment imposed for an offense under  
 23 IC 35-48-4-6(b)(1)(B) may not be suspended.  
 24 SECTION 14. [EFFECTIVE JULY 1, 2006] **This act applies only**  
 25 **to offenses committed after June 30, 2006.**

**C**  
**O**  
**P**  
**Y**

